

Remarks

1. Interview Summary

On January 6, 2010, Examiner Douglas and the undersigned participated in a telephonic interview in which the cited art and Applicant's previous remarks (filed November 13, 2009) were discussed. The Examiner agreed that the remarks overcame the previous rejections and as such, agreed to perform a new search. Applicant thanks the Examiner for his time as well as the additional search.

2. Summary of the Office Action

In the Office Action mailed January 26, 2010, the Examiner rejected claims 1-3, 5, 35-37, 58, 60, and 61 under 35 U.S.C § 102(e) as being allegedly anticipated by U.S. Patent Application Pub. No. 2002/0078198 (Buchbinder) and by U.S. Patent No. 6,374,079 (Hsu), claim 6 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Buchbinder in view of U.S. Patent Application Pub. No 2007/0277201 (Wong) and over Hsu in view of Wong, claims 7-10, 14-16, 18-20, 62-65, and 69-75 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Buchbinder in view of U.S. Patent Application No. 2001/0046366 (Susskind) and over Hsu in view of Susskind, and claims 11-13 and 66-68 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Buchbinder in view of Susskind in further view of U.S. Patent Application Pub. No. 2007/0240181 (Eldering) and over Hsu in view of Susskind in further view of Eldering. The Examiner further rejected claim 58 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

3. Status of the Claims

Presently pending are claims 1, 2, 5-16, 18-20, 35-37, 58, and 60-75, of which claims 1, 35, 58, and 60 are independent, and the remainder are dependent. By this response, Applicant

has amended claims 1, 35, 58 and 60, and cancelled claim 3.

4. Response to Rejection under 35 U.S.C. § 101

As noted above, the Examiner rejected claim 58 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. By the amendment made in this response, claim 58 is directed to a “non-transitory computer readable medium having stored thereon software instructions, which when executed by a computing device, causes a server to carry out operations.” Applicant submits that, for at least the reason that claim 58 is directed to a non-transitory CRM, claim 58 is directed to statutory subject matter and is patent eligible in view of 35 U.S.C. § 101.

5. Response to the Rejections under 35 U.S.C. § 102(e)

a. Rejections Based on Buchbinder

As noted above, the Examiner rejected claims 1-3, 5, 35-37, 58, 60, and 61 under 35 U.S.C § 102(e) as allegedly being anticipated by Buchbinder. The Buchbinder reference is a pre-grant publication of U.S. Patent Application Serial No. 10/077,105, filed on February 15, 2002. This application is a continuation-in-part of U.S. Patent Application Serial No. 09/513,550 (hereinafter referred to as “the ‘550 application”), filed on February 25, 2000. Since the filing date of Buchbinder is later than Applicant’s filing date of August, 8, 2001 (and later than Applicant’s earliest priority dates afforded under U.S.C. § 119(e)), the Examiner relied on the priority date of the ‘550 application in order to reject the current claims under U.S.C. § 102(e).

According to MPEP § 2136.03(IV.), “the subject matter used in the rejection must be disclosed in the earlier-filed application in compliance with 35 U.S.C. § 112, first paragraph, in order for that subject matter to be entitled to the earlier filing date under 35 U.S.C. 102(e).” Applicant submits that the subject matter from Buchbinder that was used in the rejection of claim

1 is absent from the '550 application, thus disqualifying Buchbinder as prior art and rendering the rejection improper.

For example, in rejecting claim 1, the Examiner cited to Buchbinder's Figure 8A and the corresponding discussion thereof in paragraphs 109-113. Applicant notes, however, that Figure 8A is absent from the '550 application in addition to the discussion thereof. As a result, that subject matter is not accorded the earlier filing date (i.e., February 15, 2000) as its prior art date under 35 U.S.C. § 102(e), but rather accorded the later filing date (i.e., February 15, 2002) as its prior art date under 35 U.S.C. § 102(e). And since this later filing date is at least later than Applicant's filing date, Applicant requests the withdrawal of these rejections of claim 1 under 35 U.S.C. § 102(e) based on Buchbinder.

Since the Examiner rejected the remaining independent claims, claims 35, 58, and 60, "by the same embodiment of Buchbinder for the same reasoning" (*see* Office Action at page 4), Applicant also requests the withdrawal of these rejections under 35 U.S.C. § 102(e) based on Buchbinder in view of the above discussion.

Further, Applicant does not acquiesce in any assertions made by the Examiner regarding Buchbinder not expressly addressed in this response.

b. Rejections Based on Hsu

As noted above, the Examiner rejected claims 1-3, 5, 35-37, 58, 60, and 61 under 35 U.S.C. § 102(e) as allegedly being anticipated by Hsu. By this response, Applicant has amended claim 1 to recite that the first and second web portals are web applications respectively hosted by first and second web servers. Regarding claim 1, Hsu does not teach each and every element of claim 1, and therefore Hsu does not anticipate claim 1. At a minimum, Hsu does not teach:

"at the server, receiving a first request relating to a first media-based device from a first user at a first client device via the first web portal, the first web portal using a first format

for exchanging data with the at least one database via the API;” (Emphasis added.)

and

“at the server, receiving a second request relating to a second media-based device from a second user at a second client device via the second web portal, the second web portal using a second format for exchanging data with the at least one database via the API, wherein the second format is different from the first format;” (Emphasis added.)

and

“wherein the first and second web portals are web applications respectively hosted by first and second web servers.” (Emphasis added.)

Hsu teaches a system for controlling a sensor actuator (S/A) device located at one premise via one or more remote devices located at remote premises. Hsu’s remote devices control the S/A devices by providing instructions to server 27 via a website hosted by server 27. *See, e.g.*, col. 8, lines 9-59; col. 17, line 50 – col. 18, line 21; and Fig. 1.

Applicant submits that Hsu does not teach each and every element of claim 1 because Hsu does not teach a server that receives (i) a first request relating to a first device via a first web portal and (ii) a second request relating to a second device via a second web portal (wherein the first and second web portals are web applications respectively hosted by first and second web servers). Applicant acknowledges that Hsu might be construed in different ways, but even in view of such different constructions, Hsu does not teach each and every element of claim 1 and therefore does not anticipate claim 1.

For example, to the extent that Hsu’s server 27 might be construed as reading on “the server” of claim 1 (which Applicant does not concede), Applicant submits that Hsu’s server 27 does not receive two separate requests via two separate web portals. In fact, Hsu teaches that server 27 receives requests directly from devices 21 and 39. Adopting this construction, there is no teaching in Hsu that would suggest that server 27 receives a request via even one web portal.

As such, Hsu does not teach each and every element of claim 1.

To the extent that device 33 might be construed as reading on “the server” of claim 1 and to the extent that server 27 might be construed as reading on a “web portal” (neither of which Applicant concedes), Applicant submits that Hsu is still silent with regard to two web portals. Hsu teaches that each remote device, be it PC 21, or mobile unit 39, connects via the internet to server 27. Device 33 then receives the instructions from server 27. Therefore, even if one can construe server 27 as reading on a “web portal,” Hsu still does not teach two web portals and does not teach that device 33 receives two requests relating to two devices from two separate web portals. As such, Hsu does not teach each and every element of claim 1.

In view of the above discussion, it is clear that regardless of how one construes Hsu, Hsu does not teach each and every element of claim 1, and therefore does not anticipate claim 1. As such, Applicant submits that claim 1 is allowable and respectfully requests the withdrawal of these rejections of claim 1 under 35 U.S.C. § 102(e) based on Hsu.

Since the Examiner rejected the remaining independent claims, claims 35, 58, and 60, “by the same embodiment of Hsu for the same reasoning” (*see* Office Action at page 6), and since Applicant has amended these claims to recite, *inter alia*, limitations similar to claim 1, Applicant also submits that these claims are allowable and requests the withdrawal of these rejections under 35 U.S.C § 102(e) based on Hsu in view of the above discussion.

Applicant also submits that each of claims 2, 5-16, 18-20, 36, 37, and 61-75 are allowable as well for at least the reason that they each ultimately depend from one of allowable claims 1, 35, and 60.

Further, Applicant does not acquiesce in any assertions made by the Examiner regarding Hsu not expressly addressed in this response.

6. Response to the Rejections under 35 U.S.C. § 103(a)

As noted above, the Examiner rejected claim 6 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Buchbinder in view of Wong and over Hsu in view of Wong, claims 7-10, 14-16, 18-20, 62-65, and 69-75 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Buchbinder in view of Susskind and over Hsu in view of Susskind, and claims 11-13 and 66-68 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Buchbinder in view of Susskind in further view of Elderin) and over Hsu in view of Susskind in further view of Eldering.

Without acquiescing in any assertions made by the Examiner not expressly addressed here, Applicant submits that each of claims 6-16, 18-20, and 62-75 are allowable for at least the reason that they each depend from one of allowable claims 1 and 60.

7. Conclusion

Applicant submits that the application is in good and proper form for allowance and therefore respectfully requests favorable reconsideration. If the Examiner believes a telephone interview would expedite prosecution, the Examiner is invited to call the undersigned at 312-913-3351.

Respectfully submitted,

**McDonnell Boehnen
Hulbert & Berghoff LLP**

Date: April 22, 2010

By: /Cole B. Richter/
Cole B. Richter
Reg. No. 65,398